

House Bill 1388

By: Representatives Martin of the 47<sup>th</sup>, Smith of the 113<sup>th</sup>, and Kidd of the 115<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 48-5-41 of the Official Code of Georgia Annotated, relating to property exempt from ad valorem taxation, so as to provide for an exemption for certain charitable institutions; to provide for a referendum, applicability, and effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 48-5-41 of the Official Code of Georgia Annotated, relating to property exempt from ad valorem taxation, is amended by striking subsection (d) and inserting in its place a new subsection (d) to read as follows:

"(d)(1) Except as otherwise provided in paragraph (2) of this subsection, this This Code section, excluding paragraph (1) of subsection (a) of this Code section, shall not apply to real estate or buildings which are rented, leased, or otherwise used for the primary purpose of securing an income thereon and shall not apply to real estate or buildings which are not used for the operation of religious, educational, and charitable institutions. Donations of property to be exempted shall not be predicated upon an agreement, contract, or other instrument that the donor or donors shall receive or retain any part of the net or gross income of the property.

(2) With respect to paragraph (4) of subsection (a) of this Code section, real estate or buildings which are owned by a charitable institution and used by such charitable institution exclusively for the charitable purposes of such charitable institution may be used for the purpose of securing income so long as such income is used exclusively for the operation of that charitable institution."

**SECTION 2.**

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of State shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the State of Georgia for approval or rejection. The Secretary of State shall conduct that election on the date of the November, 2006, state-wide general election. The Secretary of State shall issue the call and conduct that special election as provided by general law. The Secretary of State shall cause the date and purpose of the special election to be published in the official organ of each county in the state once a week for two weeks immediately preceding the date of the referendum. The ballot shall have written or printed thereon the following:

"( ) YES      Shall the Act be approved which grants an exemption from ad valorem  
( ) NO      taxation on property owned by a charitable institution which generates  
income when that income is used exclusively for the operation of such  
charitable institution?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, then Section 1 of this Act shall become effective on January 1, 2007, and shall apply to all taxable years beginning on or after that date. If Section 1 of this Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date.

**SECTION 3.**

Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.